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**REMARKS/ARGUMENTS**

This communication is in response to the Final Office Action mailed November 14, 2007. Claims 1-22 and 25-27 remain pending in this application with claims 1, 12 and 22 being the only independent claims. Reconsideration in view of the arguments presented below is respectfully requested.

**Allowed Claims**

Claims 1-21, 25 and 26 are allowed.

**Prior Art Rejections**

Claims 22 and 27 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,154,332 (Williams et al.).

Applicant respectfully traverses the outstanding rejections for the reasons described in detail below.

**Independent Claim 22**

Claim 22 states that the backpack includes “a single substantially linear releasable securing device for accessing the main compartment of the backpack.” (emphasis added)

As described by the Examiner in the outstanding Office Action, “Williams et al. discloses an enclosure (16) comprising of panels (26, 28, 30, 32) that are integrally connected to one another forming a main compartment. One of the panels (28) has a strap (18) attached at both ends to the panel (28). The enclosure includes a linear releasable securing device (zipper 14c) for accessing the main compartment, the releasable securing device having a beginning end disposed on one of the panels (26), a portion that extends across an adjacent panel (32) and a terminating end disposed on the panel (28) carrying the strap (18).” (See September 14, 2007 Final Office Action: p. 2, ll. 11-17) Therefore, the Examiner is interpreting the back panel (28) and zipper (14c) in Williams et al. to read on the present claimed “back panel” and “a single substantially linear releasable securing device”, respectively.

Applicant respectfully disagrees and directs the Examiner’s attention to the fact that the

back panel (28) in Williams et al. (Figure 3) actually has three zippers (14a, 14b, 14c), rather than a “single substantially linear” zipper, as claimed, “for accessing the main compartment of the backpack.” Moreover, Applicant submits that Williams et al. teaches away from being modified to include only a single substantially linear zipper.

Specifically, Williams et al., (Figures 3, 6, 7, 8) an enclosure (16) having multiple zippers 14a, 14b, 14c for accessing the main compartment of the enclosure. Alternatively, a single closure device having an inverted U orientation (Col. 5, ll. 25-27) (non-linear orientation) is disclosed. In all of the disclosed embodiments as well as the claims, whether employing an arrangement of plural zippers or in the case of a single inverted U oriented non-linear zipper, the principle operation requires that the zipper(s) define a flap (42) that may be rolled opened or closed in panel (28). The claimed “single substantially linear releasable securing device” in claim 22 therefore teaches away from such a flap requiring multiple zippers or a non-linear oriented single zipper and thus the principle of operation.

Applicant asserts that any attempt by the Examiner to modify Williams et al. to have a single substantially linear zipper for accessing the main compartment, as claimed, would teach away from its intended use. “If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” MPEP 2143.01 (*In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)). The flap (42) in Williams et al. is necessary for the disclosed intended purpose or principle of operation of using enclosure (16) to enclose the backpack (58) while it is being worn by the user (Abstract; Col. 2, ll. 10-15; Col. 3, ll. 36-44). This intended use or operation would not be possible with a single substantially linear zipper since (as shown in Figure 4) such configuration would not form a flap and therefore would not permit the shoulder straps (52) of the backpack (58) from being accessible through the enclosure (16). Accordingly, any attempt to render the present claimed invention unpatentable by modifying Williams et al. to have a single substantially linear zipper for accessing the main compartment would fail to establish a *prima facie* case of obviousness.

### **Dependent Claim 27**

Claim 27 depends from independent claim 22 and thus is patentable over the prior art

of record for at least the same reasons discussed above with respect to claim 22.

For the foregoing reasons, Applicant submits that claims 1-22 and 25-27 are in condition for allowance and passage of the application to issuance is requested.

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**CONDITIONAL PETITION FOR EXTENSION OF TIME**

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 503462.

**ADDITIONAL FEE**

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 503462.

Respectfully submitted,  
Cheryl F. Cohen, LLC

By



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